

**West Texas Fertilizer Company Explosion  
EPA Response and Federal/State Compliance  
Summary  
4/19/13**

**EPA's Response:**

On Thursday, April 18, EPA responded to the state regulatory agencies' request for technical assistance in conducting air monitoring based on EPA's expertise and assets.

At the request of the state, and in coordination with FEMA and other federal agencies, EPA's Region 6 has deployed 4 On-scene Coordinators (OSC), 8 contractors, 2 Response Support Corps members, and the mobile command post to the site. Additional on-scene coordinators and contractors are on standby.

On Friday, April 19, EPA continues to perform air monitoring in residential areas around the site, including areas where search and rescue operations are ongoing and areas not affected by the evacuation order. Specific chemicals being monitored for are volatile organic compounds, hydrogen sulfide, ammonia, carbon monoxide, and lower explosive limit of methane gas. As of early this morning, monitoring results have not exceeded actionable levels.

Region 6 has requested ASPECT to collect additional photo information today.

EPA is coordinating with Alcohol, Tobacco and Firearms (ATF), the Occupational Safety and Health Administration (OSHA), 6<sup>th</sup> Civil Support Team (CST), CSB, Texas Department of Environmental Quality (TCEQ), and the Office of the Texas State Chemist on current and future site operations.

EPA's On-scene Coordinators continue to coordinate with the Texas Department of Environmental Quality and multiple state and local partners on the response.

**Environmental Protection Agency (EPA) Authority/Regulations**

**Clean Air Act (CAA):**

The facility is regulated under the CAA 112r. The State of Texas, (TCEQ) is delegated to issue permits and assure compliance for CAA regulated Facilities. These activities are listed below.

**Risk Management Program (RMP)**

The facility is subject to the RMP regulations because the quantity of anhydrous ammonia on-site exceeds 10,000 lbs.

Under EPA guidance, the West Fertilizer Company is considered a low-risk facility. EPA conducted an inspection of the facilities Risk Management Program at West Fertilizer on March 16, 2006. At that time, inspectors identified deficiencies including:

- Failure to update its RMP in a timely manner. The update was due in 2004, but wasn't updated until 2006.
- Failure to document that hazards identified in the hazard review had been addressed.
- Operating procedures failed to address consequences of deviation.
- Poor employee training records.

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- The company had not developed a formal written maintenance program.

The facility was fined \$2,300 by EPA on August 14, 2006 and the company certified they corrected the deficiencies at that time.

The company submitted its 5-year update RMP on June 30, 2011. The next update is due on June 20, 2016.

**Emergency Planning and Community Right-to-Know Act (EPCRA)**

Facility is subject to EPCRA sections 311 & 312. The facility submitted a Tier II report to TCEQ which identified a maximum daily amount of 54,000 lbs of Ammonia (anhydrous).

**Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)**

The facility is registered with the EPA a Pesticide Producer Establishment. They are required to file a yearly report with EPA. The report is classified as Confidential Business Information (CBI) and accessible only by specific employees at EPA.

Other possible federal applicable standards:

**Spill Prevention, Control, and Countermeasure (SPCC)**

SPCC rules apply to facilities that store over 1,320 gallons of oil. Facilities that are regulated by SPCC are not required to register with EPA.

**Pesticide Container and Containment Rule (Section 19(e) and (f) of FIFRA)**

The facility may be subject to provisions of the Container/Containment Rule (which is similar to the SPCC rule in its intent.) depending how they stored and/or shipped pesticides produced at the facility. EPA has not inspected this facility.

**State Authority/Regulations**

**Texas Department of Environmental Quality (TCEQ)**

TCEQ - Two air permit authorizations:

- Permit #79803 for two 12,000-gallon anhydrous ammonia storage tanks; and
- Permit #80404 for the material loading and storage operations of dry fertilizer materials.
  - The first air permit was issued on December 12, 2006 after technical review and with no comments received following an opportunity for public comment and contested case hearing.
  - The second permit was issued on March 15, 2007 after technical review and with no comments received following an opportunity for public comment and contested case hearing.

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- West Fertilizer Co. was originally constructed in 1962 prior to state and federal requirements to obtain authorization for emission of air contaminants. As a result, this facility was 'grandfathered' until state law required grandfathered facilities to obtain authorization, in this instance, September 1, 2004.

**TCEQ Investigations**

- Investigation No. 10077 (Incident No. 6055): Dust complaint investigation conducted September 18, 2002 to October 3, 2002 – no nuisance conditions noted.
- Investigation No. 483529 (Incident No. 76859): Odor complaint investigation conducted June 20, 2006 - The TCEQ observed the facility had lost their grandfather permitting status and were required to obtain authorization. Per state law, grandfathered facilities in this instance were required to file a permit application by September 1, 2004. Notice of Violation issued on June 21, 2006 for operating without authorization and subsequently resolved on December 21, 2006 following submission of air permit application with TCEQ. (See Investigation No. 534828 below)
- Investigation No. 513398: Site review investigation conducted on September 20, 2006 - no concerns noted.
- Investigation No. 518224: Consistent with agency practice, TCEQ conducted an investigation and provided comment on draft permit provisions on November 2, 2006 - no additional changes made to draft permit. Permit No. 79803 was issued on December 12, 2006 after a technical review and an opportunity for public comment period and contested case hearing.
- Investigation No. 534828: Follow up investigation reviewing compliance documentation conducted on December 20, 2006, regarding violation documented from Investigation No. 483529 - violation resolved by obtaining needed permits listed above.
- Investigation No. 536904: Consistent with agency practice, TCEQ conducted a site investigation re: draft permit provisions on January 16, 2007.
- Investigation No. 542417: Consistent with agency practice, TCEQ conducted a file review re: draft permit provisions on February 28, 2007 - no additional changes made to draft permit. Permit No. 80404 was issued on March 15, 2007 after a technical review and an opportunity for public comment period and contested case hearing.

TCEQ has not received any complaints regarding this facility since those documented above.

**Texas Department of Agriculture**

This facility is a Producer Establishment for Dow AgroSciences for the product GrazonNext EPA Reg 62719-587. They are also a licensed Pesticide Dealer.